

**AMENDMENTS TO THE DRAWINGS**

The attached sheet of drawings includes changes to Figure 3. This sheet, which includes Figure 3, replaces the original sheet including Figure 3.

Attachment: Replacement Sheet

**REMARKS**

Favorable reconsideration of this application, in light of the preceding amendments and following remarks, is respectfully requested.

Claims 1-11, 14, and 17-23 are pending in this application. By this Amendment, claims 1, 2, 5, 8, 9, 10 and 18 are amended; claims 12, 13, 15, and 16 are canceled without prejudice to or disclaimer of the subject matter contained therein; and claims 19-23 are added. No new matter is added. Claim 1 is the sole independent claim.

**Acknowledgements**

Applicant appreciates the Examiner's indication that the Information Disclosure Statement filed on December 1, 2009, has been considered.

Applicant also respectfully notes the present action indicates that the drawings have been accepted by the Examiner.

Applicant respectfully notes that the present action does **not** indicate that the claim to foreign priority under 35 U.S.C. §119 has been acknowledged or that certified copies of all priority documents have been received by the U.S.P.T.O. Applicant respectfully requests that the Examiner's next communication include an indication as to the claim to foreign priority under 35 U.S.C. §119 and an acknowledgement of receipt of the certified copies of all priority documents.

**Applicant's Initiated Interview Summary**

The courtesies extended to Applicant's representative, David J. Cho, during a telephonic interview with Examiner Safavi conducted on July 29, 2010, are

acknowledged and appreciated. The substance of the interview is set forth in the Examiner's Interview Summary and in the following Applicant Initiated Interview Summary. As required by 37 C.F.R. § 1.133(b), Applicant's summary of that interview is as follows:

1. Brief Description of any Exhibit Shown

No exhibit was shown or demonstrated during the interview of July 29, 2010.

2. Identification of the Claims Discussed

The Examiner and Applicant's representative discussed independent claim 1.

3. Identification of the Specific Prior Art Discussed

The Examiner and Applicant's representative discussed the Barefoot reference.

4. Identification of the Proposed Amendments

As presented above in the instant amendment, Applicant's representative and the Examiner discussed amending the independent claim to more clearly define the claimed invention.

5. Summary of the Arguments Presented to the Examiner

Applicant's representative presented arguments regarding the above proposed amendments in the context of the indefiniteness rejection and of the Barefoot reference. More specifically, Applicant's representative argued that the Barefoot reference fails to disclose or suggest "under each of the supports, a recess is arranged in the carrier for receiving a support of an underlying carrier," as recited in independent claim 1. The Examiner somewhat agreed, but indicated that the failure to sufficiently recite the relationship between the supports and the recess rendered the claims unpatentable. The remainder of the interview was directed to discussing a level

of recitation needed to clearly define this relationship, thereby obviating both the indefiniteness rejection and the rejection based on the Barefoot reference.

**6. General Outcome of the Interview**

Although no agreement was reached, Applicant's representative agreed to amend the claims to overcome the indefiniteness rejections and the prior art rejections.

**Objection to the Drawings**

The drawings are objected to under 37 C.F.R. 1.84(p)(5) because reference character "28" is not found in the drawings.

Applicant has amended FIG. 3 to include reference character "28", to obviate the objection. Withdrawal of the objection to the drawings is respectfully requested.

**Claim Rejections - 35 U.S.C. § 112**

***I. First Paragraph***

Claim 18 is rejected under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement. Specifically, the specification fails to disclose "the supports are fixed relative to the flat plate." Applicant respectfully traverses this rejection for the reasons discussed below.

Applicant submits that the rejection has been rendered moot as claim 18 has been amended to positively comply with the written description requirement.

Further, Applicant respectfully submits that the feature found in amended claim 18 is clearly and completely supported by the written description of the instant

application as originally filed. For example, as shown in FIG. 11, the support 44 may be integrally formed with the support surface of the U-shaped profile 45.

In view of the above, Applicant respectfully submits that the rejection of claim 18 is improper, and respectfully requests that it be reconsidered and withdrawn.

## ***II. Second Paragraph***

Claims 1-6 and 8-18 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Applicant respectfully traverses this rejection for the reasons discussed below.

In regard to claim 1, Applicant has amended claim 1 to provide proper antecedent basis. In particular, claim 1 has been amended to recite “adjacently to the short sides of the flat plate, U-shaped profiles including support surfaces for supporting underlying carriers are provided.” Moreover, it is submitted that support for the feature of “the support surface is adjacent to the short side of the flat plate” may be found in the originally filed disclosure, *e.g., e.g., page 4, lines 21-25 in the originally filed PCT application*. In addition, as shown in FIG. 11, the support (bracket) 44 is integrally formed with the support surface of the U-shaped profile 45.

Further, in regard to claim 1, the feature “the support surfaces are all offset in the same direction relative to the recesses” has been rendered moot as this feature has been canceled by this amendment.

In regard to claim 8, Applicant submits that claim 8 has been amended to obviate the rejection.

In regard to claim 10, Applicant has amended claim 10 to recite “the locking elements are provided to lock with brackets.” Support for amended claim 10 may be found in page 12, lines 3-16 of the originally filed PCT disclosure. Specifically, when the carriers are stacked on top of each other, the locking elements 27 lock with the bracket 44 to provide lateral locking.

In view of the above, Applicant respectfully requests that the rejections under 35 U.S.C. § 112, second paragraph, be reconsidered and withdrawn.

### **Claim Rejections - 35 U.S.C. § 102**

#### ***I. Barefoot***

Claims 1-6, 8-13, 17 and 18 are rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 2,747,748 to Barefoot (“the Barefoot reference”). Applicant respectfully traverses this rejection for the reasons discussed below.

Applicant respectfully submits that the Barefoot reference fails to disclose, or even suggest, *inter alia*:

**adjacently to the short sides of the flat plate, U-shaped profiles including support surfaces for supporting underlying carriers are provided;**

**under one support, an interruption is arranged for receiving an underlying carrier, such that the carrier is also nestable during return of transport or stores empty carriers with less space taken up by the carriers than in the stacked carrier position; and**

**adjacent a position of the interruption, the U-shaped profile is fixed to the support surface,**

as recited in amended claim 1.

In the outstanding Final Office Action, the Examiner contends that the projections 24 correspond to a “recess.” Specifically, the Examiner alleges that “a

recess. . . . is arranged in the carrier for receiving a support 13 of an underlying carrier.”<sup>1</sup> Applicant respectfully disagrees because the projections 24 are not a “recess” (i.e., opening, cavity, hole, aperture, gap, space, etc.); but instead a ‘curved surface’ for supporting the supports (or for the supports to merely rest on).

Notwithstanding the above, it is submitted that the projections 24 of Barefoot do not ‘receive’ a support (bracket) of an underlying carrier as taught by claim 1. In other words, the supports 13 are merely placed on (rests on) the projections 24 provided on the underside of the tray and formed inwardly from the side ends of the tray. Contrarily, the recess (“the interruption 43”) of claim 1 is arranged in the carrier for ‘**receiving**’ the support, which connotes that the support extends/protrudes into the interruption, and thus, allows the support of a lower carrier to extend above the plane of the higher carrier. The supports in Barefoot do not “extend/protrude” into any recesses. In other words, the interruption 43 (a recess) allows nesting, i.e., allowing a support, or specifically in FIG. 11 a bracket 44, to extend vertically above a plate of an higher carrier. That is, it is the interruption 43 that allows the nesting. The interruption 43 is positioned adjacent to the support surface, in FIG. 11, formed by the U-shaped profile.

Thus, the Barefoot reference fails to disclose, or even suggest, “**under one support, an interruption is arranged for receiving an underlying carrier, such that the carrier is also nestable during return of transport or stores empty carriers with less space taken up by the carriers than in the stacked carrier position,**” as recited in amended claim 1.

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<sup>1</sup> See Final Office Action mailed April 21, 2010, page 5.

Even if *arguendo* that Barefoot discloses a “recess”, Applicant submits that the Barefoot reference fails to disclose or suggest **“adjacent a position of the interruption, the U-shaped profile is fixed to the support surface,”** as recited in claim amended claim 1. In other words, as shown in an example, non-limiting embodiment, FIG. 11 discloses of the **“U-shaped”** profile 45 including a support surface adjacent to the interruption 43. There is no “U-shaped profile” disclosed in Barefoot.

Further, the “support surface” may be, as shown in FIG. 11, formed by the surface in the U-shaped profile between lips 47 that form a lateral locking means. The two legs of the “U” form a longitudinal locking. The base of the “U” is the “support surface” for stacking the carriers (on top of the supports –brackets).

Moreover, Applicant submits that the “U-shaped” profiles may be used in the stacked condition (having interspacing), so that the brackets 44 may be received in the U-shaped profiles 45. The upper end of the brackets 44 may be received in between lips 47 that prevent shifting/moving of the bracket in the direction along beam 42. Further, to bring the carrier from the stacked position to a nested position, just a slight “offset” movement of the upper carrier with respect to the lower carrier may be performed (and a slight lifting). The brackets 44 (left and right) may be moved out of the respective left and right U-shaped profiles 45 and the carrier may then be shifted just a short distance to bring the interruption 43 exactly above the brackets. This may be just a slight movement to the right of the upper carrier. The brackets 44 may then be received in the interruption 43 and may extend through the interruption 43 until just under the upper bracket. In other words, a complete bracket 44 of an



underlying carrier may be received in the volume under the bracket and above the interruption 43.

Accordingly, the Barefoot reference is completely silent of teaching or suggesting “adjacent a position of the interruption, the U-shaped profile is fixed to the support surface,” as taught in claim 1.

Since the Barefoot reference fails to disclose each and every element of claim 1, it cannot provide a basis for a rejection under 35 U.S.C. § 102(b) and, thus, is allowable. Claims 2-6, 8-13, 17, and 18 depend from claim 1, and therefore, allowable for the similar reasons discussed above with respect to claim 1.

For at least these reasons, the Examiner is respectfully requested to reconsider and withdraw the § 102(b) rejection of claims 1-6, 8-13, 17, and 18.

## **II. Huls**

Claims 1, 2, 8, 17, and 18 are rejected under 35 U.S.C. § 102(b) as being anticipated by German reference DE 1,658,736 to Huls (“the Huls reference”). Applicant respectfully traverses this rejection for the reasons discussed below.

As similarly discussed above, Applicant respectfully submits that the Huls reference also fails to disclose or suggest, **“adjacently to the short sides of the flat plate, U-shaped profiles including support surfaces for supporting underlying carriers are provided,” “under one support, an interruption is arranged for receiving an underlying carrier....”** and **“adjacent a position of the interruption, the U-shaped profile is fixed to the support surface,”** as recited in amended claim 1.

The Huls reference is completely silent of teaching or suggesting “an interruption arranged in the support surface for receiving an underlying carrier,” as taught by claim 1. Specifically, there is no “interruption” under each of the supports for “receiving” an underlying carrier and no “U-shaped profile” adjacent to a position of the interruption. *See FIG. 11.*

Since the Huls reference fails to disclose each and every element of claim 1, it cannot provide a basis for a rejection under 35 U.S.C. § 102(b) and, thus, is allowable. Claims 2, 8, 17, and 18 depend from claim 1, and therefore, allowable for the similar reasons discussed above with respect to claim 1.

For at least these reasons, the Examiner is respectfully requested to reconsider and withdraw the § 102(b) rejection of claims 1, 2, 8, 17, and 18.

#### **Claim Rejections - 35 U.S.C. § 103**

Claims 12-16 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Barefoot in view of U.S. Patent No. 2,803,369 to Fleetwood (“the Fleetwood reference”). Applicant respectfully traverses this rejection for the reasons discussed below.

Claims 12, 13, 15, and 16 have been canceled by this amendment, thus rendering this portion of the rejection moot.

In regard to claim 14, this claim is believed to be allowable for at least the reasons set forth above regarding claim 1. The Fleetwood reference fails to provide the teachings noted above from the Barefoot reference. Since claim 14 is patentable at least by virtue of its dependency on independent claim 1, Applicant respectfully requests that the rejection of claim 14 under 35 U.S.C. § 103(a) be withdrawn.

**NEW CLAIMS**

Claims 19-23 have been added in an effort to provide further, different protection for Applicants' invention. Claims 19-23 are allowable at least for the reasons somewhat similar to those given for claim 1, and/or for the further features recited therein. No new matter is added, as support for claims 19-23 may be found in at least paragraphs [0079] and [0080] of the corresponding published application; and **FIG. 11**.

**CONCLUSION**

In view of the above remarks and amendments, Applicant respectfully submits that each of the pending objections and rejections has been addressed and overcome, placing the present application in condition for allowance. A notice to that effect is respectfully requested. Further, the above remarks demonstrate the failings of the outstanding rejections, and are sufficient to overcome the rejections. However, these remarks are not intended to, nor need they, comprehensively address each and every reason for the patentability of the claimed subject matter over the applied prior art. Accordingly, Applicant does not contend that the claims are patentable solely on the basis of the particular claim elements discussed above.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact the undersigned, at the telephone number below.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 08-0750 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17; particularly, extension of time fees.

Respectfully submitted,

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By

  
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